Office-Supreme Court, U.S.
FILED
NOV 8 1963
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 478

BESS KAYE,

Appellant, Pro Se,

—v.—

SPENCE CHAPIN ADOPTION SERVICE,

Appellee.

BRIEF IN OPPOSITION TO MOTION TO DISMISS

BESS KAYE
160 Weyman Ave.
New Rochelle, N. Y.
Appellant, Pro Se

TABLE OF CONTENTS

PAGE

ARGUMENT 1

CONCLUSION 17

AUTHORITIES

Cases:

Anon v. Balcer, 360 U. S. 287, 290 16

Barrows v. Jackson, 346 U. S. 249, 257 8
Bates v. Little Rock, 361 U. S. 516, 523 8

Communist Party v. Subversive Activities Control Board, 367 U. S. 1, 81 8

First National Bank v. Anderson, 269 U. S. 341, 346 10

Glovis v. Glovis, 121 N. Y. sub. 2nd, p. 12 13

Kaye v. Spence Chapin, 12 N. Y. 2d, p. 951 11

McGowan v. Maryland, 366 U. S. 420, 429, 430 8

NAACP v. Alabama, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. 1488 8
NAACP ex rel. Patterson, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. 1488 8
N. Y. ex rel. Brant v. Zimmerman, 278 U. S. 63, 67 10

Rea v. Rea, 195 Ore. 252 16
Rogers v. Ala., 192 U. S. 226, 230-1 10

Slagle v. Ohio, 366 U. S. 287, 290 16
Staub v. Baxley, 355 U. S. 313, 318 10

PAGE

Tumbleson v. Tumbleson, 117 Ind. App. 455 16

Voss v. Voss, 157 Wis. 430 9

Wunsch v. Wunsch, 248 Wis. 29, 31 8

Statutes:

28 U. S. C. Section 2103 15

Domestic Relations Law, Section 118-a (new), Section 117 (old) 7

Domestic Relations Law, Section 118-b (new), Section 118 (old) 17

General Laws (Ter. Ed.) c. 210, Section 210, 5B inserted by St. 1950, c. 737, Section 3 13

Family Court Act, Subd. "e," Chapter 686, 1962 14

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 478

BESS KAYE,

Appellant, Pro Se,

—v.—

SPENCE CHAPIN ADOPTION SERVICE,

Appellee.

BRIEF IN OPPOSITION TO MOTION TO DISMISS

May It Please the Court:

Appellee has filed a motion to dismiss and I the appellant submit this brief in response to the motion.

In appellee's Statement of the Case and under "a" in Point 1, the appellee claims that "the husband and wife decided that the best interest of child lay in having her adopted into a good home" and that the parents have not attacked the surrender. Should two irresponsible young separated parents—the mother emotionally disturbed (pp. 70, 71, 72R, Exhibits C, D, E) and the father having completely abandoned the child be allowed to make a decision about the life and welfare of the child? In the record (144R) the grandmother claims abandonment by father. She subpoenaed the records of the Domestic Relations Court to prove her claim, and this record was among the papers that Judge Gold refused to let her see and that Judge Gold admitted having before him (131R).

It would be indeed surprising if the natural parents described above would have attacked the surrender. The father having completely abandoned the child and the mother being emotionally disturbed and their *having never at any time attended any proceeding or hearing involving the child's fate* shows that having got rid of the child they do not want any further responsibility concerning the child.

In the Declaration and Surrender (14-15R) it states "that said child may be adopted by such person or persons in its discretion it may select or that the child may be placed by said agency in its discretion in foster care." It is inconceivable that even irresponsible and immature young people could take a child, who is old enough to tell its grandmother that she loves her and who was living happily and securely with her grandmother, and turn her over to an adoption agency and sign a paper that states that the adoption home can in its discretion keep the child in a foster home, subsequently to be shifted from one foster home to another.

Also, in the Statement of the Case, the appellee, in answer to appellant's (the grandmother) charge that the hearing was secret, claims that the adoption home's former attorney asked Judge Gold to bar the press to protect the child from possible further publicity. The following substantiates that it is not the welfare of the child that the Spence Chapin Adoption Service was concerned with, but rather the adverse publicity they received. After appearance before Judge Capozzoli, almost all the New York papers carried the story and "The News" headed their write-up "Court Orders Probe of Peculiar Adoption."

Quoted in part is the following from "The News" on December 7th:

> "Capozzoli asked: Is the Spence Chapin Service so sacrosanct that it cannot be questioned in this manner? I don't think a child should be put up for sale to the highest bidder."

From "The Mirror" December 7th, Judge Capozzoli said:

> "I don't think a child should be put up for sale. The whole matter smells to me. I say it is suspicious."

In Appellant's Jurisdictional Statement (p. 13) she quotes from the American Law Reports Annotated which states the "the decree awarding custody of a minor child must be based on evidence heard in open court in observation of due process".

In "b" under Point 1, the appellee claims that the appellant (the grandmother) was given ample time to obtain counsel. The appellee has misled the court on certain facts. In answer to appellee's charge that grandmother waited a year to take action, the appellant would like to inform Court that the day after the child was taken she went to a lawyer, a Mr. Louis Zasloff. Mr. Zasloff claimed he could not locate the whereabouts of the child and it wasn't until the grandmother was successful at obtaining this information that she could start action. When appellant appeared before Judge Capozzoli,[1] the appellee maintained that the grandmother had no standing. The grandmother not knowing then how to combat this argument,[2] the only way Judge Capozzoli (who was sympathetic to the grandmother's cause, 54R) could refrain from dismissing her writ was to

---

1 A lawyer that appellant knew told her that the hearing would be informal and that she could handle it.

2 The appellant has had time since then to learn something about the legal aspects of her case.

order an investigation to see if the grandmother had grounds and a right to a hearing.[3]

> "Judge Capozzoli: Now, if after such an investigation comes in I find that it is useless procedure to give her a hearing on this writ, that is the end of it. If, on the other hand, I think there should be an open hearing, an airing of this business, I shall order a hearing" (57-59R).

Therefore, the appellant did not know if she would receive a hearing until the completion of the investigation. On January 13, the appellant was informed that she was granted a hearing to be held on January 18th.[4] Between these few days the week-end intervened, so the appellant received her first adjournment of six days to the 24th of January. Almost immediately afterwards, the appellant became ill and a Doctor Elkind of New Rochelle came to her home. At her request he sent Judge Gold a letter stating that the appellant could not leave her home for ten days. Appellant refers to this twice in the record (87R, 97R).

To further insure her writ not being dismissed, appellant requested an attorney she knew, Joseph Glass, whose office is near the Supreme Court Building, to appear and ask for a 10 day adjournment due to her illness. Unknown to appellant, Joseph Glass sent his son William to appear and William Glass asked for an adjournment to prepare for the case. The following substantiates the appellant's statements. After the request for adjournment, the appellant called Joseph Glass to retain him. He was busy and had his

---

3 The appellee and appellant have both failed to inform the Court that no stipulation was entered into between the two parties.

4 There was not enough time to obtain competent legal representation for a case such as this.

son William speak for him. The appellant impressed upon the son that it was his father Joseph Glass, a man experienced in adoption work, that she wished to retain. This was the first time in her life that appellant spoke to William Glass, the son of Joseph Glass. The following, in his own words, is what the son William claimed at the hearing that he said to appellant after the request for adjournment:

> "I told Mrs. Kaye to come down and give me the facts and I would examine them and tell her at that point whether or not I would take her money" (94R).

The following, in Mr. Glass's words, is his admission at time of hearing that he had never obtained the facts:

> "Mrs. Kaye has not seen me to date. She was sick, could not come down. I could not go up to New Rochelle and get the facts and I would not take the facts over the phone" (96R).

Mr. William Glass's words in the record speaks for itself. Although the appellant did not even know of the existence of William Glass at the time she requested his father to obtain a 10 day adjournment due to her illness, although she spoke to said William Glass for the first time in her life after the request for adjournment, although she claimed at her hearing that the first time she had ever seen William Glass was at her hearing (90R) and although she insisted at five different times at her hearing that she had not retained William Glass (87, 88, 89, 107R), still for argument's sake, assuming *arguendo* that Joseph Glass had misunderstood the appellant's request, the fact remains that a *litigant has the right to assume that an attorney has not been retained if he tells her that he will not take her money until he hears the facts and admits that he never got the facts.* In the face of the fact that appellant maintained

five times at her hearing that she had not retained William Glass and in light of William Glass's own statements, it is illogical, unrealistic and untrue for appellee to make the assertion that appellant discharged William Glass at time of hearing and appellee cannot and does not point to anywhere in the record that this is so. This mix-up only becomes believable in the light of the subsequent unbelievable injustices that appellant received from Judge Gold, the Trial Court Judge, the Appellate Division, the Court of Appeals and the State Reporter.[5] Also untrue is the appellee's claim of appellant having three attorneys. The record substantiates that it was the associate of Mrs. Shientag, *the first attorney appellant retained* that requested the adjournment at hearing (86R).

Since the sum total time of the two adjournments granted appellant prior to the actual hearing was only 17 days and were for valid reasons, the appellant expected (and was so assured by Mrs. Shientag) that the ten day adjournment requested for her return would be granted, appellant made no preparations for her case (other than serving the subpoenas) and informed her witnesses not to appear.[6] With no witnesses, with not being able to see her subpoenaed documents to prove her claims, with Judge Gold allowing the director of the Spence Adoption Service to ignore her subpoena and to ignore the subpoena to produce their records, with Judge Gold failing to cause any exploration of the vital objective factors to be made particularly concerning the child's whereabouts and surroundings and any facts about the adoptive parents including religion of adoptive parents, with Judge Gold failing to keep promise to appel-

---

5 Appellant refers to this later in brief.

6 Appellant inadvertently failed to notify a Mrs. Landau not to appear at her hearing. She was to testify to father's abandonment, but appellant was not given opportunity to question her. (144R)

lant and Court to have her papers made part of the record in support of her petition, with Judge Gold making his decision based on secret evidence (all underied by appellee) made it impossible for appellant and child to receive a full and fair hearing in accordance with due process and receive "full judicial review" as claimed by appellee in Point 1 on page 7.

I tried to limit the Jurisdictional Statement to merits of the case, but since the appellee dwells on my obtaining legal representation, I feel it is necessary to correct the erroneous impression created by appellee's brief. Appellant would also like to correct the erroneous impression made by Judge Gold's "after seeing and hearing the witness" that the appellee refers to The Jewish Reform Temples who demand that their Sunday School teachers be secular teachers of high moral character, possess certification and Sunday School teaching experience, felt inclined (although appellant is no secular teacher and has not completed her certification) "after seeing and hearing the appellant" to entrust her with the religious and moral training of groups of children up to 60 in number (Exhibit K, p. 87R; Exhibit J, p. 84R). The appellant's attempted aspersions upon the character of the appellant is not substantiated anywhere in or out of the record or in oral argument.[7]

Under (b) of Point 1 the appellee claims that the grandmother represented no protectible interest. New York Domestic Relation Law Section 118-a (new) and Section 117 (old) states that "anyone in behalf of a child can make application for abrogation."

The following United States Supreme Court cases also uphold the grandmother's right to fight for her grandchild:

---

7 Appellant is now acting as her own attorney as the appellee's objection to her using typewritten records necessitated the outlay of considerable sums of money.

"The principle that parties may rely only on constitutional rights which are personal to themselves is not disrespected where constitutional rights of persons who are not immediately before the court." *NAACP ex. rel Patterson,* 357 U. S. 449-78 S. Ct. 1163-2 L. Ed. 2d 1488.

"The 'rule denying standing to raise another's rights . . . is only a rule of practice' and it will not be applied when 'the reasons which underlie our rule . . . are outweighed by the need to protect . . . fundamental rights which would (otherwise) be denied.' Barrows v. Jackson, 346 U. S. 249, 257.

"The Court has exercised its jurisdiction over cases 'where constitutional rights of persons who are not immediately before the Court could not be effectively vindicated except through an appropriate representative (who was) before the Court.' "

NAACP v. *Alabama,* 357 U. S. 449, 459-460;
Bates v. *Little Rock,* 361 U. S. 516, 523;
Communist Party v. *Subversive Activities Control Board,* 367 U. S. 1, 81;
Cf. McGowan v. *Maryland,* 366 U. S. 420, 429, 430.

Re appellee's claims that "the appellee, unlike the litigant in a civil case or a defendant in a criminal action, serves the sole function of directing the court's attention to facts which might bear adversely upon the child's welfare. Once this privilege has been afforded, however, such an individual is entitled to no more of a hearing than that which the court, in its discretion, deems necessary to protect the child's best interest." In her Jurisdictional Statement the appellant quoted from the "Constitution of the United States of America" (p. 16, J. S.) that holds that a person involved in administrative as well as judicial proceedings is entitled to due process. In *Wunsch* v. *Wunsch,* 248 Wis. 29, 31 the Court held:

> "While the right to the custody of a minor child of tender years is a matter very largely in the discretion of the Trial Court, still a contest as to that matter is a judicial proceeding and the discretion must be exercised on legal grounds and the determination of the court subject to review as in other cases."

In *Voss* v. *Voss*, 157 Wis. 430, the Court held:

> "The Court maintains that a contest between parents as to custody of child is clearly a judicial and not an administrative matter and the procedure governing judicial proceedings should govern."

Under "c" in Point 1, the appellee argues that the failure of the Court of Appeals to amend the remittitur bears heavily on the appellant, but *appellee commendably does not deny that constitutional questions were timely raised.* Appellant's statement about the raising of the constitutional question needs clarifying. The question of due process could not be raised in the Trial Court as appellant did not know she and child would be deprived of due process. *The question of due process was first raised on appeal to the Appellate Division.* Since it was only on oral argument that the appellant had a solid basis of fact to know that child had been put in wrong religion, it was in her Motion for Reargument to the Appellate Division that the religious issue was first raised as a constitutional question. Due to her lack of legal training, appellant did not notice that the Motion for Reargument made to the Appellate Division was not made part of the record. However, since the appellee does not deny the appellant's statement in her Jurisdictional Statement about the Motion for Reargument and appellant quotes the exact place the questions were raised, the appellant prays that the Court will not penalize her for

her attorney's inadvertence in failing to make the motion part of the record.[8]

> "The Court itself has the power to examine into the raising of the federal question and if it is convinced that the highest state court's refusal to deal with that question is a mere evasion, the court's jurisdiction can be asserted." *Rogers* v. *Alabama*, 192 U. S. 226, 230-1.

The "Court must determine for itself" whether "a pleading sets up a sufficient right of action or defense, grounded on the Constitution or a law of the United States" and "is not concluded by the view taken . . . by the state court."

> *1st Nat'l Bank* v. *Anderson*, 269 U. S. 341, 346; *Staub* v. *Baxley*, 355 U. S. 313, 318.

In framing the federal question for presentation to the State Court, the litigant is not bound to follow any particular form of words or phrases. It is essential only that he bring the federal claim and the grounds therefor to the state court's attention with fair precision. And "if the record as a whole shows either expressly or by clear intendment that this was done, the claim is to be regarded as having been adequately presented."

> *N. Y. ex rel. Bryant* v. *Zimmerman*, 278 U. S. 63, 67.

Re the appellant's claim that the natural mother is a non-practicing Jew. The unbelievable injustices suffered by appellant did not stop after the rendition of judgment by the Court of Appeals. The State Reporter, or whoever is responsible for the citation of cases in the law books, chose

---

8 If the Court feels it necessary to have a certified copy of Motion for Reargument to Appellate Division the grandmother is hopeful that the Court will give her an opportunity to obtain same.

to ignore the question of religion in citing this case although the religious question, outside of the due process, is the main issue of the case at bar *Kaye* v. *Spence Chapin Adoption Service*, 12 N. Y. 2d, page 951. Likewise, now, the appellee claims that "the entire jurisdictional statement is really a claim of individual due process rights." By now, the appellant should know that "wishing does not make it so." If the adoption service had investigated the natural parents and child and if they had not ignored the grandmother's and the Rabbis when they contacted them, before child was placed with adoptive parents, they would not now be accused of aiding and abetting an emotionally disturbed mother and an irresponsible father (who abandoned the child) to violently seize the child to give up for adoption. They also would not now be accused of putting child in wrong religion. Although the appellee does not deny that the religious question was raised in lower courts and the religious question was in Notice of Appeal to the Supreme Court and although at least five pages are devoted to the religious question in appellant's Jurisdictional Statement, he so strongly wishes that the adoption agency was not accused of putting the child in the wrong religion (which is a reflection on his law firm) that he says "the entire jurisdictional statement is really a claim of individual due process rights."

Although the appellee made the above statement in an effort to clear the adoption home and his law firm of any guilt, it is not that simple. He argues the point by saying "it has been stated that the mother is a non-practicing Jew." This has only been stated by the *appellee and it wasn't until oral argument in Court of Appeals upon direct questioning from the Judges that it was stated.* The appellee commendably does not deny that the former attorney for the Spence Chapin Adoption Service argued in the

Appellate Division that natural mother is a Protestant and in Court of Appeals that she is a non-practicing Jew. The only substantiating evidence in or out of the record or in oral argument that natural mother is a non-practicing Jew is that she was married by a Unitarian minister (appellee does not claim that she belongs to a Unitarian Church). Attached to the Motion for Reargument is a letter from Dr. Harrington, the minister who married the natural mother in which he says that "a Jew joining a Unitarian Church remains a Jew and a member of their own synagogue." This point was subsequently argued in the Leave for Appeal and brief to Court of Appeals which was never denied by appellee. Therefore, a Jew getting married by a Unitarian Minister in no way precludes him from remaining a Jew in good standing.

Just as the appellant admittedly vacillated about the mother's religion in the lower courts, so now there is vacillating about the father's religion. In the lower courts, the former attorney for the adoption home claimed the father was a non-believer. Now, the present attorney for the adoption home chooses to make the father a non-practicing Catholic. It is plain to see that the Spence Chapin Adoption Service never knew exactly the religion of either parent.

The facts are that the mother attended a synagogue for many years and was confirmed from Sunday School (Exhibit J, p. 84R). She has always had and still has a deep feeling for her religious heritage and has never renounced being a Jew. In the eyes of God, the mother (born of Jewish parents, who were born of Jewish parents), in the eyes of the Rabbis, in the eyes of her parents and family, and in the eyes of herself she is considered a Jew.

The father may or may not have been born of Catholic parents.[9] What is known is that he left home at an early age and never believed, or embraced or practiced or attended any kind of a house of worship. The appellee's claim in the lower courts that the father is a non-believer is a more accurate appraisal of the father's religion.

Besides the fact that in the Jewish religion the child takes the faith of the mother based on certainty of parentage (Exhibits I and O on pp. 84-90R) (the Jews are a race and a culture, besides a religion), New York decedent law does not allow an illegitimate child to inherit from the father even where the father is known (Section 83 Decedent Estate Law). The statutes of Massachusetts hold:

> "In making orders for adoption, the Judge when practicable must give custody only to persons of the same religious faith as that of the child. In the event that there is a dispute as to the religion of said child, its religion shall be deemed to be that of the mother." General Laws (Ter. Ed.) c. 210, Section 210 5B inserted by St. 1950, c. 737, Section 3.

In the closest case appellant has found to approximate her case, the *Glovis* v. *Glovis case*, 121 N. Y. sub. 2nd, page 12, the mother is Jewish and the father, unlike the non-believing father in the case at bar, is a Catholic in good standing. Yet, the Court saw fit to award the child to the Jewish paternal grandfather. Judge Panken, the Trial Judge in the *Glovis* case, in his opinion says:

> "I should, however, advise serious thought on the part of both parents as to whether the child should embrace a religion other than the religion of either of the parents. This certainly would harm the child."

---

9 Appellant has never met the family of the natural father and does not know where they live or anything about them.

In the case at bar the child has been put in the Protestant religion which does not represent the religion of either of her natural parents. How can it be successfully argued that to put a child *outside the religion of either parent protects the religion of the child?* The child in question having been born of a father who appellee argued in the lower courts is a non-believer and a Jewish mother to be raised in the Protestant religion is a violation of her religious freedom as guaranteed by the free exercise clause of the First Amendment of the U. S. Constitution.

The words "when practicable" shall be interpreted as being without force or effect if there is a proper or suitable person of the same religious faith as that of the child available for appointment as guardian, or to be designated as custodian, or to whom control may be given, or to whom orders of adoption may be granted. Subdivision "e" of Laws of 1962, Chapter 686, effective 9-1-62 of the N. Y. Family Court Act.

In the case at bar, not only was there a suitable person of the same religious faith as that of the child available, it was her own maternal grandmother who was desirous, and even anxious, to continue raising child in the Jewish religion.

The Trial Judge (Judge Gold) allowed the adoption home to ignore the subpoena for their records that would have proved what religion the adoptive parents were and the Appellate Division ruled without knowing the religion of the adoptive parents, as it wasn't until oral argument in Court of Appeals that the appellee disclosed the religion of the adoptive parents. Since the appellee did not disclose the adoptive parents' religion until argument in Court of Appeals and since the appellant's (the grandmother) attorney was not allowed but a few minutes in rebuttal to the appellee's claims, the appellant's attorney

was not given a chance to refute this erroneous statement. The appellant's (the grandmother) attorney wrote the Court a letter after argument, but appellant does not know why, under the circumstances, her attorney did not ask for reargument. Therefore, as to the question of religion, not any of the lower courts actually knew the religion of the natural parents and only the Court of Appeals knew the religion of adoptive parents from oral argument.

The appellant cannot stress too strongly to the Court the vacillation of the appellant about the religion of the natural parents and that nowhere in the lower courts did the appellee put in writing the religion of the natural parents, child or adoptive parents (undenied by appellee). Appellant asks the Court to please notice that the *appellee still refuses to put in writing the religion of the adoptive parents in their brief to the Supreme Court.*

Appellee contends that the present appeal does not satisfy the requirements of 28 U. S. C. Section 1257 (2). In all due respect to the appellee, it is the validity of New York Statute Section 114 of the Domestic Relations Law from which the court derives its authority to grant adoption that is the basis for appellant's right to appeal.

Appellee contends that 28 U. S. C. 1257 (3) is not here relevant as it relates solely to review by writ of certiorari. As the Court knows, sometimes a case falls in both appeal and certiorari. The appellant feeling that her case fell in both categories, took the way of appeal. She listed 28 U. S. C. 1257 (3) in the event that the Court will treat her case as a writ of certiorari. 28 U. S. C. Section 2103 provides that:

> "If an appeal to the Supreme Court is improvidently taken from the decision of the highest court of a State, or of a United States Court of Appeals, in a case where the proper mode of review is by petition for

certiorari, this alone shall not be ground for dismissal; but the papers whereon the appeal was taken shall be regarded and acted upon as a petition for writ of certiorari and as if duly presented to the Supreme Court at the time the appeal was taken."

E.g., Anon v. *Baker*, 360 U. S. 287, 290;
Slagle v. *Ohio*, 366 U. S. 259, 264.

Re appellee claims that no substantial questions were raised. Besides, as appellant shows in her Jurisdictional Statement, there being an irreconcilable conflict with the law laid down by the same New York Court of Appeals (p. 15, J. S.) and an irreconcilable conflict with the law laid down by the United States Supreme Court (pp. 10, 11, 12, 14, J. S.) there is also an irreconcilable conflict with the law laid down by the New York Court of Appeals in the case at bar and the law laid down by other state Courts of Appeals. The following three decisions are among the cases that the New York Court of Appeals used in their opinion of the *Kessler* v. *Kessler* case supporting their decision to grant a rehearing:

"The right to confront and cross-examine witnesses lies at the basis of our judicial system. The existence of a back door to the Courtroom and thus, to the Judge's private ear is abhorrent to our ideas of justice." *Rea* v. *Rea*, 195 Ore. 252.

In *Tumbleson* v. *Tumbleson*, 117 Ind. App. 455 the Court held in granting a rehearing:

"Where a claim or defense turns upon a factual adjudication, the constitutional right of the litigant to an adequate and fair hearing requires that he be apprised of all evidence received by the Court and be given an opportunity to test, explain or rebut it."

CONCLUSION

Appellee emphasizes the fact that the adoption has already been legalized in an apparent effort to convey the impression that the child is in a secure environment. What appellee overlooks is that New York law denies to an adopted child the secure status that it has in its own family:

> "A foster parent who in pursuance of this article or of any act appealed hereby shall have adopted a foster child from an authorized agency may apply to a Judge or Surrogate of the court in which the original adoption took place for the abrogation of such adoption because of any misdemeanor or ill behavior of such child." Domestic Relations Law, Section 118 (old), Section 118 b (new).

Besides the substantial and shocking violations of due process, in litigation involving a child, which violates the due process clause of the Fourteenth Amendment of the U. S. Constitution, the violation of the free exercise clause of the First Amendment of the U. S. Constitution and the violation of the Fifth Amendment of the U. S. Constitution by the child being deprived of liberty without due process of law and the attack upon the validity of the New York statute, for an irreconcilable conflict to exist between recent decisions of the same Court of Appeals and an irreconcilable conflict to exist between the New York Court of Appeals and other states and an irreconcilable conflict to exist between the New York Court of Appeals and the United States Supreme Court makes the case at bar of general importance in order to secure uniformity of judgments.

The resolution of this case will have immediate importance far beyond the particular facts and parties involved,

for this case presents principles which affect many people throughout the country, so the appellant respectfully and humbly requests that the appellee's motion to dismiss the appeal be denied.

Respectfully submitted,

BESS KAYE
160 Weyman Ave.
New Rochelle, N. Y.
Appellant, Pro Se